

Docket No.: R2184.0486/P486  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

Application No.: Not Yet Assigned

Confirmation No.: N/A

Filed: Concurrently Herewith

Art Unit: N/A

For: INFORMATION RECORDING MEDIUM,  
RECORDING METHOD, DATA  
STRUCTURE, INFORMATION  
RECORDING APPARATUS, PROGRAM,  
AND RECORDING MEDIUM

Examiner: Not Yet Assigned

**PETITION TO MAKE SPECIAL (M.P.E.P. § 708.02(VIII))**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith is a Petition to Make Special for the above-identified patent application.

1. Petition:

Applicant hereby petitions to make the above-identified application special pursuant to 37 C.F.R. § 1.102(d) and M.P.E.P. § 708.02(VIII). The application has not yet been examined.

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2. Claims:

- (a) A Preliminary Amendment is being filed concurrently herewith.
- (b) All of the claims pending in the present application (i.e., claims 39-108) are directed to a single invention.
- (c) If the Office determines that all the claims presented are not obviously directed to a single invention, Applicant will make an election without traverse as a prerequisite to the grant of the requested special status.

3. Search:

An International Search was made, in the art classifications believed to be most relevant to the claimed invention (see the attached Patent Cooperation Treaty International Search Report). The International Search was directed to original PCT claims 1-38 which were directed to the same invention as claimed in the present application (i.e., claims 39-108). The search included International Patent Class G11B. International Class G11 is "Information Storage," and G11B is "Information Storage Based On Relative Movement Between Record Carrier And Transducer."

4. References:

The documents uncovered in the search are cited on the attached Form PTO/SB/08.<sup>1</sup> The Office is requested to consider all of the documents and to make them of record using the attached Form PTO/SB/08. Among the listed references, the

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<sup>1</sup> Copies of the documents discussed in this Petition are enclosed herewith, pursuant to M.P.E.P. § 708.02(VIII).

document deemed most closely related to the subject matter encompassed by the present claims (i.e., claims 39-108) is listed and discussed in detail below:

Patent Document

WO 03/105141

EP 1492117

Dated

December 18, 2003

December 29, 2004

Applicant reserves the right to establish, where applicable, that one or more of the above documents does not represent prior art against the present invention.

5. Characteristics of the Present Invention:

The independent claims (i.e., 39, 40, 42, 56, 57, 59, 88, 89, and 91) of the present invention are characterized by having at least the following configurations:

(a) Claim 39

The recording method of claim 39 is for recording information to a multi-layered rewritable information recording medium. The method includes the step of recording end recorded area information to the information recording medium, the end recorded area information including the highest address of unrecorded area in the second data area.

(b) Claim 40

The recording method of claim 40 is for recording information to a multi-layered rewritable information recording medium. The method includes the step of recording end recorded area information to the information recording medium, the end recorded area information including an address following the highest address of unrecorded area in the second data area.

## (c) Claim 42

The recording method of claim 42 is for recording information to a multi-layered rewritable information recording medium. The method includes the step of recording end recorded area information to the information recording medium, the end recorded area information identifying a recorded area on the second data area having an end address corresponding to the end address of the second data area, said recorded area being adjacent an area having the highest address among unrecorded area on the second data area.

## (d) Claim 56

The information recording apparatus of claim 56 is for recording information to a multi-layered rewritable information recording medium. The recording apparatus includes a recording part for recording data to a designated recording layer among the recording layers of the information recording medium and a process apparatus for recording end recorded area information to the information recording medium via the recording part, the end recorded area information including the highest address of unrecorded area in the second data area.

## (e) Claim 57

The information recording apparatus of claim 57 is for recording information to a multi-layered rewritable information recording medium. The recording apparatus includes a recording part for recording data to a designated recording medium and a process apparatus for recording end recorded area information to the information recording medium via the recording part, the end recorded area information including an address following the highest address of unrecorded area in the second data area.

## (f) Claim 59

The information recording apparatus of claim 59 is for recording information to a multi-layered rewritable information recording medium. The recording apparatus includes a recording part for recording data to a designated recording layer among the recording layers of the information recording medium and a process apparatus for recording end recorded area information to the information recording medium via the recording part, the end recorded area information being for identifying a recorded area on the second data area having an end address corresponding to the end address of the second data area, said recorded area being adjacent an area having the highest address among unrecorded area on the second data area.

## (g) Claim 88

The information recording medium of claim 88 is for recording information to a multi-layered rewritable information recording medium. The recording medium includes an information area having an area for recording end recorded area information thereto, the end recorded area information including the highest address of unrecorded area in the second data area.

## (h) Claim 89

The information recording medium of claim 89 is for recording information to a multi-layered rewritable information recording medium. The recording medium includes an information area having an area for recording end recorded area information thereto, the end recorded area information including an address of unrecorded area in the second data area.

## (i) Claim 91

The information recording medium of claim 91 is for recording information to a multi-layered rewritable information recording medium. The recording medium includes an information area having an area for recording end recorded area information thereto, the end recorded area information being for identifying a recorded area on the second data area having an end address corresponding to the end address of the second data area, said recorded area being adjacent an area having the highest address among unrecorded area on the second data area.

6. Discussion of the References:

a. International Application WO 03/105141

International Application WO 03/105141 (hereinafter "WO '141") relates to a storage medium having a plurality of recording layers. This application discloses that a storage medium having a disc definition structure (DDS) "information can include the last verified address (LVA) pointer for each layer" (page 6, lines 2-3), and "if a recording layer has been partially formatted, the first physical sector number (PSN) of the last cluster that has been formatted can be written in the last verified address (LVA) pointer for the recording layer. So a formatting operation for a partially formatted recording layer could be continued from the PSN of the LVA pointer for the partially formatted recording layer" (page 7, lines 5-12). With respect to formatting, this application only discloses "the formatting operation is based on a general formatting method or a background formatting method" (page 9, lines 1-3) except selecting a recording layer to be formatted (page 8, lines 27-31). As of the date of the WO '141 application, a formatting method for a medium having two recording layers as described in the claimed invention was not available to the public. Only a formatting method for a medium having only one recording layer was available to the public.

Claim 39 recites a step of “recording end recorded area information to the information recording medium, the end recorded area information including the highest address of unrecorded area in the second data area.” WO ‘141 does not disclose, teach, or suggest this element.

Claim 40 recites a step of “recording end recorded area information to the information recording medium, the end recorded area information including an address following the highest address of unrecorded area in the second data area.” WO ‘141 does not disclose, teach, or suggest this claim element.

Claim 42 recites a step of “recording end recorded area information to the information recording medium, the end recorded area information identifying a recorded area on the second data area having an end address corresponding to the end address of the second data area, said recorded area being adjacent an area having the highest address among unrecorded area on the second data area.” WO ‘141 does not disclose, teach, or suggest this claim element.

Similarly, WO ‘141 does not disclose an apparatus capable of recording in such a manner. Claim 56 recites a recording apparatus including “a recording part for recording data to a designated recording layer among the recording layers of the information recording medium” and “a process apparatus for recording end recorded area information to the information recording medium via the recording part, the end recorded area information including the highest address of unrecorded area in the second data area.” As set forth above, the WO ‘141 reference fails to disclose, teach, or suggest at least these claim elements.

Claim 57 recites a recording apparatus including “a recording part for recording data to a designated recording medium” and “a process apparatus for recording end

recorded area information to the information recording medium via the recording part, the end recorded area information including an address following the highest address of unrecorded area in the second data area.” As set forth above, the WO ‘141 reference fails to disclose, teach, or suggest these claim elements.

Claim 59 recites a recording apparatus including “a recording part for recording data to a designated recording layer among the recording layers of the information recording medium” and “a process apparatus for recording end recorded area information to the information recording medium via the recording part, the end recorded area information being for identifying a recorded area on the second data area having an end address corresponding to the end address of the second data area, said recorded area being adjacent an area having the highest address among unrecorded area on the second data area.” As set forth above, the WO ‘141 reference fails to disclose, teach, or suggest these claim elements.

Moreover, the rewritable information recording medium of claim 88 is not disclosed, taught, or suggested in the WO ‘141 reference. Claim 88 recites a recording medium including “an information area having an area for recording end recorded area information thereto, the end recorded area information including the highest address of unrecorded area in the second data area.” As such, WO ‘141 fails to disclose, teach or suggest these claim elements.

Claim 89 recites a recording medium including “an information area having an area for recording end recorded area information thereto, the end recorded area information including an address of unrecorded area in the second data area.” As such, WO ‘141 fails to disclose, teach or suggest these claim elements.



Claim 91 recites a recording medium including “an information area having an area for recording end recorded area information thereto, the end recorded area information being for identifying a recorded area on the second data area having an end address corresponding to the end address of the second data area, said recorded area being adjacent an area having the highest address among unrecorded area on the second data area.” As such, WO ‘141 fails to disclose, teach or suggest these claim elements.

Pursuant to M.P.E.P. § 708.02(VIII), the foregoing discussion, with the particularity required by 37 C.F.R. § 1.111(b) and (c), distinguishes the claimed subject matter from these references and thus, is patentable over the respective documents. Applicant notes, however, that there are also additional reasons why the claims should be allowable over the cited documents, in addition to those discussed above. Moreover, Applicant reserves the right to establish, if and where applicable, that one or more documents do not represent prior art against the claimed invention.

b. EP Application 1492117

EP Application 1492117 (hereinafter “EP ‘117”) refers to a storage medium having a plurality of recording layers. This application discloses that a storage medium that has a maximum PSN, a maximum position that can be used for a data area in layer 0.

Claim 39 recites a step of “recording end recorded area information to the information recording medium, the end recorded area information including the highest address of unrecorded area in the second data area.” EP ‘117 does not disclose, teach, or suggest this element.

Claim 40 recites a step of "recording end recorded area information to the information recording medium, the end recorded area information including an address following the highest address of unrecorded area in the second data area." EP '117 does not disclose, teach, or suggest this claim element.

Claim 42 recites a step of "recording end recorded area information to the information recording medium, the end recorded area information identifying a recorded area on the second data area having an end address corresponding to the end address of the second data area, said recorded area being adjacent an area having the highest address among unrecorded area on the second data area." EP '117 does not disclose, teach, or suggest this claim element.

Similarly, EP '117 does not disclose an apparatus capable of recording in such a manner. Claim 56 recites a recording apparatus including "a recording part for recording data to a designated recording layer among the recording layers of the information recording medium" and "a process apparatus for recording end recorded area information to the information recording medium via the recording part, the end recorded area information including the highest address of unrecorded area in the second data area." As set forth above, the EP '117 reference fails to disclose, teach, or suggest at least these claim elements.

Claim 57 recites a recording apparatus including "a recording part for recording data to a designated recording medium" and "a process apparatus for recording end recorded area information to the information recording medium via the recording part, the end recorded area information including an address following the highest address of unrecorded area in the second data area." As set forth above, the EP '117 reference fails to disclose, teach, or suggest these claim elements.

Claim 59 recites a recording apparatus including “a recording part for recording data to a designated recording layer among the recording layers of the information recording medium” and “a process apparatus for recording end recorded area information to the information recording medium via the recording part, the end recorded area information being for identifying a recorded area on the second data area having an end address corresponding to the end address of the second data area, said recorded area being adjacent an area having the highest address among unrecorded area on the second data area.” As set forth above, the EP ‘117 reference fails to disclose, teach, or suggest these claim elements.

Moreover, the rewritable information recording medium of claim 88 is not disclosed, taught, or suggested in the EP ‘117 reference. Claim 88 recites a recording medium including “an information area having an area for recording end recorded area information thereto, the end recorded area information including the highest address of unrecorded area in the second data area.” As such, EP ‘117 fails to disclose, teach or suggest these claim elements.

Claim 89 recites a recording medium including “an information area having an area for recording end recorded area information thereto, the end recorded area information including an address of unrecorded area in the second data area.” As such, EP ‘117 fails to disclose, teach or suggest these claim elements.

Claim 91 recites a recording medium including “an information area having an area for recording end recorded area information thereto, the end recorded area information being for identifying a recorded area on the second data area having an end address corresponding to the end address of the second data area, said recorded area being adjacent an area having the highest address among unrecorded area on the

second data area." As such, EP '117 fails to disclose, teach or suggest these claim elements.

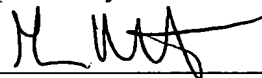
7: Fee:

Please charge our Credit Card in the amount of \$130.00 covering the fee set forth in 37 C.F.R. § 1.17(h). Credit Card Payment Form SB-2038, with a signature from an authorized cardholder, is enclosed. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1073, under Order No. R2184.0486/P486. A duplicate copy of this paper is enclosed.

Accordingly, Applicant requests that this Petition to Make Special be granted and the application undergo accelerated examination.

Dated: March 31, 2006

Respectfully submitted,

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